



GENERAL SERVICES ADMINISTRATION

48 CFR Part 509

[GSAR Change 96; GSAR Case 2017-G503; Docket No. 2018-0012;

Sequence No. 1]

RIN 3090-AJ87

**General Services Administration Acquisition Regulation; Removing
Duplicative Responsibility Determination Guidance**

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Direct final rule.

SUMMARY: GSA is amending the General Services Administration Acquisition Regulation (GSAR) to remove duplicative text already contained in the Federal Acquisition Regulation.

DATES: Effective date: This rule is effective **[Insert date 60 days after date of publication in the Federal Register]** unless GSA receives adverse comments during the comment period. If GSA receives adverse comments, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

Comment date: Comments are due **[Insert date 30 days after date of publication in the Federal Register]** by any of the methods listed in the Addresses section of this rule.

ADDRESSES: Submit comments in response to GSAR Case 2017-G503 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for "GSAR Case 2017-G503". Select the link "Comment Now" that corresponds with "GSAR Case 2017-G503." Follow the instructions provided on the screen. Please include your name, company name (if any), and "GSAR Case 2017-G503" on your attached document.

- Mail: General Services Administration,
Regulatory Secretariat Division (MVCB), ATTN: Lois
Mandell, 1800 F Street, NW, 2nd floor, Washington, DC
20405.

Instructions: Please submit comments only and cite "GSAR Case 2017-G503" in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Johnnie McDowell,
Procurement Analyst, at 202-718-6112 or

johnnie.mcdowell@gsa.gov, for clarification of content.

For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite GSAR Case 2017-G503.

SUPPLEMENTARY INFORMATION:

I. Background

FAR 1.304(b) states that agency regulations shall not “unnecessarily repeat, paraphrase, or otherwise restate material contained in the FAR.” Here, both GSAR 509.105-1(b) and FAR 9.105(b) provide guidance to obtaining information from Government sources for a responsibility determination of potential Government contractors.

II. Discussion and Analysis

Both GSAR 509.105-1(b) and FAR 9.105-1(b) pertain to how contracting officers obtain information regarding a contractor’s responsibility. GSAR 509.105-1(b) states “[t]he contracting officer may solicit and consider information from any appropriate activities[.]” FAR 9.105-1(b) states “[g]enerally, the contracting officer shall obtain information regarding the responsibility of prospective contractors, including requesting pre-award surveys when necessary (see 9.106) promptly after bid opening or receipt of offers . . .” GSAR 509.105-1(b) simply paraphrases FAR 9.105-1(b) as it restates that a

contracting officer should obtain information regarding a contractor's responsibility through "any appropriate activities" which is implied through FAR 9.105-1(b)'s language. Further, FAR 9.105 includes that standards and procedures for requesting and obtaining information sufficient to determine the responsibility of a prospective contractor, i.e., that an offeror meets the standards at FAR 9.104. Therefore, GSAR 509.105-1(b) will be removed from the GSAR because it violates FAR 1.304(b) by unnecessarily paraphrasing FAR 9.105-1(b).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13771

This final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule merely removes unnecessarily duplicative regulatory language. The rule imposes no new reporting, recordkeeping, or other information collection requirements. Therefore, a Regulatory Flexibility Analysis has not been performed.

VI. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 509

Government procurement.

Dated: November 7, 2018.

Jeffrey A. Koses,
Senior Procurement Executive,
Office of Acquisition Policy,
Office of Government-wide Policy,
General Services Administration.

Therefore, GSA is amending 48 CFR part 509 as set forth below:

PART 509—CONTRACTOR QUALIFICATIONS

1. The authority citation for part 509 continues to read as follows:

Authority: 40 U.S.C. 121(c).

2. Revise section 509.105-1 to read as follows:

509.105-1 Obtaining information.

FAR 9.105-1 lists a number of sources of information that a contracting officer may utilize before making a determination of responsibility. The contracting officer may request information directly from a prospective contractor using GSA Form 527, Contractor's Qualifications and Financial Information, but only after exhausting other available sources of information.

Billing Code: 6820-61

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